IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF OCTOBER
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION No.723 of 2000

Between:
M. Subramanaya Reddy and another

..... PETITIONERS

AND

The Mandal Revenue Officer,
Narayanavanam, Chittoor District.

.....RESPONDENT

Counsel for the Petitioners: MR.SAMINENI KISHORE

Counsel for the Respondent: GP FOR REVENUE

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No.723 of 2000

ORDER:

This writ petition is filed by the petitioners, seeking Writ of Mandamus, directing the respondent to issue permanent pattas pertaining to an extent of Ac.8.00 of agricultural land situated in Sy.No.221 of Thiruvattam village, Narayanavanam Mandal in their favour and thereby setting aside the proceedings of the respondent issued in ROC No.102/2000 dated 10.01.2000, as arbitrary, illegal and unsustainable.

On 22.01.2000, while ordering notice before admission, this Court granted an interim direction that the petitioners may not be dispossessed in the meantime. Thereafter, the writ petition was admitted on 09.06.2000.

The case of the petitioners is that on their applications, considering their poverty and after necessary enquiry, the respondent-Mandal Revenue Officer granted temporary lease in their favour vide proceedings in ROC No.A/322/85, dated 08.05.1985 in respect of land, situated in Sy.No.221 of Thiruvattam village, Narayanavanam Mandal, which is construed to be a poramboke land. On such granting of temporary lease, the petitioners, being the farmers, have developed the land and made it fit for cultivation and thereafter commenced agricultural operations and raised sugarcane crop by investing huge amounts. They also digged bore wells for irrigation purpose.

It is also stated that on expiry of the lease period, the respondent extended the lease period by further period of three years vide proceedings in L.Dis.No.323/85, dated 05.07.1986. It is also

submitted that the petitioners represented their grievance to the respondent from time to time for grant of permanent pattas in their favour for the land in question. But, unfortunately, the respondent failed to heed their request, and on the other hand, the respondent asked the petitioners to vacate the land in question and hand over the same to the Government. Under those circumstances, the petitioners received the impugned proceedings issued in ROC No.102/2000, dated 10.01.2000, directing the petitioners to vacate the land in question within a period of 15 days from the date of receipt of that notice, on the ground that the possession of the petitioners over the land in question is objectionable. It is contended that the impugned proceedings are issued without any prior notice and the same is in violation of the principles of natural justice and unsustainable.

A counter is filed on behalf of the respondent, disputing and denying the allegations made in the writ petition. It is stated that the total extent in S.No.221 of Thiruvattam Tank Poramboke is Ac.63.16 cents. The elections related to Water Users Association of Thiruvattam tank were conducted and one Sri Sorakayalaswamy Reddy was elected as President. He lodged a complaint before the Mandal Revenue Officer, Narayanavanam on 02.12.1999 to take action for encroachment of land by Sri Subramanyam Reddy @ Shanmuga Reddy and Ramalinga Reddy in the above said tank. The President further stated that during his tenure there were no encroachments in the tank except by both the petitioners. For his oral request, the petitioners did not care him and sown sugar cane crop in the year 1999 in the said tank. Immediately the Mandal Revenue Officer issued an urgent circular No.ROC.B/978/99, dated 02.12.1999, directing his subordinates to take action against the encroachment in the tank bed land of Thiruvattam tank. The revenue officials have identified the encroachments and accordingly the Additional Revenue Inspector, Narayanavanam has enquired into the matter and recorded Panchanama, confirming the illegal and unsustainable encroachments

made by the petitioners. According to the panchanama, the petitioners have encroached an extent of Ac.8.00 out of total extent of Ac.63.16 cents of Thiruvattam tank poramboke and dug a bore well and fixed a submersible pump set and they have also unauthorisedly got electrical connection. The sugarcane crop was ready for cutting within a month. The crop is estimated at 240 tonnes for 8 acres at the rate of 30 tonnes per acre. The value of the sugarcane crop was estimated at Rs.1,92,000/- at the rate of Rs.800/- per tonn. In the presence of Panchanamadars and escort police, the electrical motor and pump set valued at Rs.25,000/- were seized by the Additional Revenue Inspector, Narayanavanam. The petitioners/encroachers were not available and hence the seized stock has been transported to Mandal Revenue Office and handed over the same to the Mandal Revenue Officer, Narayanavanam for safe custody. It is also stated in the counter that on 08.12.1999 the petitioners/encroachers were appeared before the Mandal Revenue Officer, Narayanavanam and requested to grant permission for removing the riped sugarcane crop within one month and return the seized stock. The petitioners have given a statement promising that they will not re-enter into the encroached area after cutting the riped sugarcane crop in Thiruvattam tank, and also bind over for taking criminal action if they failed to adhere to their promise. Basing on the said undertaking, the Mandal Revenue Officer returned the seized material to the petitioners and orally warned them not to refix the material to the bore well. As the duration of permitted period of 30 days from 08.12.1999 has been elapsed by 06.01.2000, the Mandal Revenue Officer has decided to evict the encroachers and issued notice urgently on 10.01.2000.

It is also stated that as per Memo No.50150/ASN-I(1)/98-1, dated 02.09.1998 of A.P.Revenue (ASN-I) Department, it is very clear that the prohibitory orders were issued prohibiting the conversion of tank and tank bed lands into the ‘Ayan’ for alienation/assignment/Eksal leases vide Govt.Memo No.865/Mc/83-3 Revenue (M) Department,

dated 19.08.1983. In the G.O.Ms.No.157 Revenue (M) Department, dated 13.02.1987 orders were issued that no cultivation should be allowed in the tank bed lands including the lands lying beyond the full tank level (FTL) either on Eksal basis or for a long period after the expiry of the subsisting leases and that no fresh leases of tank bed lands should be granted in future even during the drought years and also directed to see that no leases are extended, if any granted in pursuance of the instructions issued in Govt.Memo No.1816/M1/85-1 Revenue, dated 01.07.1986. It is also categorically stated that the lease period that was granted in favour of the petitioners was expired by 05.07.1989.

The case of the petitioners is that the petitioners were enjoying the land in question by virtue of lease that was granted in their favour. The lease period is over. The possession of the petitioners over the land in question was found to be objectionable, thereby the petitioners were asked to vacate the land in question. When the petitioners failed to vacate the land in question, then the impugned notice has been issued by the respondent. In the counter affidavit, it is categorically stated that the petitioners sugarcane crop was estimated for a sum of Rs.1,92,000/-. On 08.12.1999 the petitioners were appeared before the Mandal Revenue Officer, Narayanavanam and requested to grant permission for removing the riped crop within one month and return the seized stock. They have given a written undertaking promising that they will not re-enter into the encroached area after cutting the riped sugar cane crop in Thiruvattam tank. They also stated that they would bind over for taking criminal action against them if they failed to adhere to their undertaking. Basing on the said undertaking, the Mandal Revenue Officer handed over the seized material to the petitioners and orally warned not to refix the material to the bore well. As the duration of permitted period of 30 days from 08.12.1999 has been elapsed by 06.01.2000, the Mandal Revenue Officer has decided to evict the encroachers and issued notice urgently on 10.01.2000.

There is no reply filed by the petitioners to the counter affidavit filed by the respondent, denying the averments made therein. Obviously, in this case, consequent to the expiration of the lease that was granted by way of temporary pattas in favour of the petitioners in respect of the tank bed area, there is no further extension. Thereafter, an objection was raised with regard to the possession and enjoyment of the lands in question by the petitioners. The petitioners were asked by the Mandal Revenue Officer to vacate the lands in question. As the petitioners did not vacate the lands in question, the impugned notice was issued. Consequent to the impugned notice, a panchanama was conducted and the electrical motor and pump set were seized in the presence of panchanamadars. On the undertaking given by the petitioners, the material belong to the petitioners were returned on a condition that they will not re-enter into the lands in question and refix the material to the bore well.

In view of the averments made in the affidavit and counter affidavit, it is clear that the petitioners cannot be said to be the illegal encroachers as they were enjoying the land in question by virtue of lease. The lease was granted for a limited period which was already expired, and hence the petitioners' possession over the lands in question was found illegal. The land in question is a tank poramboke land. The petitioners have already been evicted from the lands in question and on the undertaking given by the petitioners that they will not re-enter into the lands in question, the material seized under cover of panchanama was returned, and the same is not being disputed by the petitioners.

In view of the facts and circumstances of the case, I am of the opinion that the petitioners did not have any vested right or title to claim right over the lands in question. Therefore, they are not entitled for any relief in their favour.

The Writ Petition is, accordingly, dismissed. However, by virtue of interim direction granted by this Court, if the petitioners are

continued in possession of the lands in question, they are directed to vacate the same and hand over the vacant possession to the respondent, within a period of two months, from the date of receipt of a copy of this order. No order as to costs.

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G.CHANDRAIAH,J

Dated:23.10.2007
Dsr